

Evan Spelfogel  
Epstein Becker & Green  
250 Park Avenue  
New York, New York 10177-1211  
(212) 351-4500  
Attorneys for Defendant

ORIGINAL

RECEIPT # 6459/w  
AMOUNT \$ 250  
SUMMONS ISSUED MA  
LOCAL RULE 4.1 \_\_\_\_\_  
WAIVER FORM \_\_\_\_\_  
MCF ISSUED \_\_\_\_\_  
BY DPTY. CLK. 5-31-05  
DATE \_\_\_\_\_

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

----- X  
LUANN P. GOULD,

Plaintiff,

– against –

LUCENT TECHNOLOGIES, INC.

Defendant.  
----- X

05 CV \_\_\_\_\_ ( ) ( )

SUPERIOR COURT, ESSEX  
COUNTY, COMMONWEALTH  
OF MASSACHUSETTS  
C.A. No. ESCV2005-00500-C

**NOTICE OF REMOVAL**

MAGISTRATE JUDGE Boulger

Defendant Lucent Technologies Inc. ("Lucent"), by its attorney Evan J. Spelfogel of Epstein Becker & Green, P.C., files this Notice of Removal of the above-captioned action presently pending in Superior Court, Essex County, Commonwealth of Massachusetts ("State Action") pursuant to 28 U.S.C. §§ 1441 and 1446. The grounds for removal are as follows:

1. On information and belief, Plaintiff, Luann P. Gould, commenced the State Action on or about March or April 2005, by filing a Complaint in Superior Court, Essex County, Commonwealth of Massachusetts, captioned Luann P. Gould v. Lucent Technologies, Inc., C.A. No. ESCV2005-00500-C.

2. Lucent first received notice of the State Action on or about May 11, 2005, when it received a copy of the Summons and Complaint.

3. Copies of the Summons and Complaint, which constitute all of the processes and pleading to date, are annexed hereto as Exhibit A.

**A. Federal Question Jurisdiction Under 28 U.S.C. § 1331**

4. The crux of Plaintiff's Complaint centers around allegations that, inter alia, Lucent violated the federal Family Medical Leave Act ("FMLA"), 29 U.S.C.A. § 2601 et. seq., by denying her request for leave under the FMLA and subsequently terminating her employment for excessive absenteeism.

5. Because the Complaint raises claims under the laws of United States, over which this Court has original jurisdiction under 28 U.S.C. §§ 1331 and 1441, the State Action is removable from the Essex County Superior Court to this Court.

6. This Court has supplemental jurisdiction over plaintiff's state law and common law claims pursuant to 28 U.S.C. §1367 because the Complaint's remaining allegations are so related to the claims in the action within this Court's original jurisdiction that they form a part of the same case or controversy.

**B. Diversity Jurisdiction Pursuant to 28 U.S.C. § 1332**

7. Plaintiff resides at 14 Billy's Way, Danville, New Hampshire. *See* Paragraph 2 of the Complaint.

8. Lucent is a Delaware corporation with its principal place of business located in New Jersey.

9. Pursuant to 28 U.S.C. § 1332(a)(1), there exists complete diversity of citizenship of the parties. There are no other parties to the case whose citizenship is at issue under 28 U.S.C. § 1332.

10. The amount in controversy, exclusive of interest and costs, exceeds \$75,000.

11. Whether the amount in controversy is met for purposes of diversity jurisdiction depends on the claims of the named plaintiffs in their complaint. *Rosen v. Chrysler Corp.* 205 F.3d 918, 920-21 (6th Cir. 2000). The allegations in the Amended Complaint make it clear that Plaintiff's claims put more than \$75,000 in controversy, exclusive of interest and costs:

a. Plaintiff alleges that Lucent (a) violated the FMLA, 29 U.S.C.A. § 2601 et. seq. and the Small Necessities Leave Act ("SNLA"), M.G.L. c. 149 s. 52D, (b) wrongfully terminated Plaintiff's employment against public policy, and (c) negligently and intentionally inflicted emotional distress upon Plaintiff.

b. For these alleged violations and unlawful acts, Plaintiff seeks (a) lost pay and benefits dating back to August 1, 2003; (b) treble damages under the FMLA and the SNLA; and (c) attorneys' fees, interests and costs of the suit.

12. By filing this notice, Lucent does not waive any defenses which may be available to it.

13. This Notice of Removal is filed within the time provided by 28 U.S.C. §1446(b) and the Federal Rules of Civil Procedure.

14. Lucent has not yet answered or otherwise replied to the Summons and Complaint filed in the State Court action, nor has its time to respond expired.

15. Upon filing of this Notice of Removal, Lucent shall give written notice to Plaintiff's attorney, Linda A. Harvey, Esq., Harvey & Kleger, 184 Pleasant Valley Street, Methuen, MA 01844, and Lucent shall file copies of said Notice of Removal with the Clerk, Superior Court, Essex County, Commonwealth of Massachusetts.

WHEREFORE, Lucent removes the above-captioned action now pending against it in Superior Court, Essex County, Commonwealth of Massachusetts, to the United States District Court for the Massachusetts, wherein it shall proceed as originally commenced therein.

Dated: May 26, 2005

Respectfully submitted,

EPSTEIN BECKER & GREEN, P.C.

By:   
Evan J. Spelfogel

250 Park Avenue  
New York, New York 10177-1211  
(212) 351-4500

*Attorneys for Defendant Lucent Technologies Inc.*

TO: Linda A. Harvey, Esq.  
Harvey & Kleger  
184 Pleasant Valley Street  
Methuen, MA 01844

RECEIVED

(TO PLAINTIFF'S ATTORNEY: Please Circle Type of Action Involved: - TORT - MOTOR VEHICLE TORT -  
CONTRACT - EQUITABLE RELIEF - OTHER.)

## COMMONWEALTH OF MASSACHUSETTS

ESSEX, ss.

SUPERIOR COURT  
CIVIL ACTION  
No.

Gould

, Plaintiff(s)

v.

Lucent Technologies, Inc.

, Defendant(s)

### SUMMONS

To the above named Defendant:

You are hereby summoned and required to serve upon Attorney Linda A. Harvey,  
plaintiff's attorney, whose address is 184 Pleasant Valley Street, Methuen, MA an answer to the  
complaint which is herewith served upon you, within 20 days after service of this summons upon you, exclusive of the  
day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the  
complaint. You are also required to file your answer to the complaint in the office of the Clerk of this court at  
Lawrence Superior Ct either before service upon plaintiff's attorney or within a reasonable time thereafter.

Unless otherwise provided by Rule 13 (a), your answer must state as a counterclaim any claim which you may  
have against the plaintiff which arises out of the transaction or occurrence that is the subject matter of the plaintiff's  
claim or you will thereafter be barred from making such claim in any other action.

WITNESS, SUZANNE V. DeVECCHIO, Esquire, at Salem, the  
day of \_\_\_\_\_, in the year of our Lord two thousand

*John C. Carter*  
5/10/05

*Thomas H. Driscoll Jr.*  
Clerk

#### NOTES:

1. This summons is issued pursuant to Rule 4 of the Massachusetts Rules of Civil Procedure.
2. When more than one defendant is involved, the names of all defendants should appear in the caption. If a separate summons is used for each defendant, each should be addressed to the particular defendant.

NOTICE TO DEFENDANT - You need not appear personally in court to answer the complaint, but if you claim to have a defense, either you or your attorney must serve a copy of your written answer within 20 days as specified herein and also file the original in the Clerk's Office.

**COMMONWEALTH OF MASSACHUSETTS  
DEPARTMENT OF THE TRIAL COURT**

ESSEX, ss.

SUPERIOR COURT  
C.A. No. ESCV2005-00500-C

LUANN P. GOULD,	)
Plaintiff,	)
	)
v.	)
	)
LUCENT TECHNOLOGIES, INC.,	)
Defendant.	)

**COMPLAINT AND JURY DEMAND**

The plaintiff, Luann P. Gould ("Gould") hereby respectfully submits her Complaint against the Defendant, Lucent Technologies, Inc., ("Lucent") and Gould's demand for a trial by jury of all issues so triable.

**Nature of Complaint**

1. This is an action by Gould against her former employer, Lucent Technologies, Inc. for violating provisions of the Family and Medical Leave Act (FMLA) and the Small Necessities Leave Act (SNLA). Lucent denied Gould's qualifying requests for leave under FMLA. Shortly thereafter, Lucent terminated Gould on August 1, 2003 for excessive absenteeism. This Complaint includes counts for violations of the FMLA and SNLA; retaliation under the FMLA and SNLA; wrongful termination against public policy; negligent infliction of emotional distress; and intentional infliction of emotional distress.



Parties

2. Luann P. Gould ("Gould") is an individual residing at 14 Billy's Way, Danville, New Hampshire.
3. Lucent Technologies, Inc. ("Lucent") is a corporation having a usual place of business at 1600 Osgood Street, North Andover, Essex County, Massachusetts.

Facts

4. Gould was hired to work at Lucent on October 16, 1979. Gould worked at Lucent continuously until she was terminated on August 1, 2003.
5. Gould's daughter, Shelby Gould, was born on July 22, 1997. In 1997, Gould suffered from kidney failure due to her pregnancy.
6. On August 6, 1997, Gould was hospitalized for conjunctive heart failure.
7. In 1998, Gould had kidney surgery.
8. Gould was absent from work for extensive periods of time from 1996 through 1998 due to her pregnancy, health complications, and surgery.
9. Gould requested and was approved for FMLA time off from work during these years.
10. Despite the FMLA leave time granted, Gould was written up under Lucent's absenteeism policy because her medical conditions required she be out of work for more than 12 weeks each year during the years 1996, 1997, and 1998.



11. In all relevant years, Lucent used an absenteeism policy for any given year which involved counting absences for the prior three years, regardless of whether the absences were due to serious medical conditions.
12. Lucent's absenteeism policy involved a probationary rating system of Level 1 (best) to Level 5 (worst).
13. For the period March 3 through March 28, 2003, Gould requested and received FMLA leave.
14. On May 5 through May 7, 2003, Gould requested FMLA leave because she needed to take her daughter, age 5, to a medical appointment. Gould's daughter was diagnosed with chicken pox, was contagious, needed care, and could not be left in daycare.
15. Gould's request for leave was not foreseeable on May 5, 2003, and Gould provided notice as soon as practicable.
16. Gould is a single mother, and is the sole caregiver for her daughter.
17. Gould was eligible for FMLA time off for her daughter's chicken pox in May, 2003.
18. Gould was concurrently eligible for time off from work under the Mass. Small Necessities Leave Act (SNLA).
19. No one from Lucent notified Gould that she was eligible for SNLA time off.
20. On July 7, 2003, Gould's daughter had an eye infection, required a doctor's visit, and required antibiotic ointment. Gould's daughter had conjunctivitis, which is highly contagious.
21. Gould's request for leave on July 7, 2003 was not foreseeable.

22. Gould contacted her supervisor, Pyong Deletis, at Lucent and advised her about the doctor's visit for her daughter, the treatment, and that her daughter was contagious for 24 hours.
23. As Gould was the only person available to care for her daughter, she told Deletis she would need to stay home on July 7, 2003.
24. On July 7, 2003, Peggy Blumer, Benefits Manager at Lucent denied Gould's prior request for FMLA leave for May 5-7, 2003.
25. Gould returned to work on July 8, 2003.
26. Gould submitted FMLA paperwork to Lucent on July 14, 2003 for July 7, 2003.
27. Gould's request for FMLA time off for July 7, 2003 was denied in late July.
28. The 2 denials of FMLA time off resulted in Gould's termination on August 1, 2003 due to unauthorized absences.
29. As of August 1, 2003, Gould had accrued 4 hours of vacation time.
30. Blumer denied Gould's request for FMLA time off in May and July, 2003 because "Childhood illness does not qualify under FMLA, unless there are complications."
31. Blumer told Gould's supervisor that she (Blumer) would have denied Gould's prior requests for FMLA time off in March, 2003 that had been approved by others in Lucent's benefits office.

Count I

Violation of Family and Medical Leave Act

- 32. Gould hereby repeats and incorporates herein by reference each and all of the allegations set forth above.
- 33. Lucent was a qualified FMLA employer.
- 34. Gould was an eligible FMLA employee for the calendar year 2003.
- 35. Gould had approximately 8 weeks of FMLA time remaining in 2003, after approved time taken in March, 2003.
- 36. Lucent's denial of FMLA time off for May, 2003 and July, 2003 was unfounded and erroneous.
- 37. Lucent's denial of FMLA time off directly resulted in its decision to terminate Gould on August 1, 2003.

Count II

Violation of M.G.L. c. 149 s. 52D (SNLA)

- 38. Gould hereby repeats and incorporates herein by reference each and all of the allegations set forth above.
- 39. Lucent was a qualified SNLA employer.
- 40. Gould was a qualified SNLA employee.
- 41. Gould was eligible for up to 24 hours of leave in calendar year 2003 in order to accompany her daughter to routine medical or dental appointments, such as checkups of or vaccinations.
- 42. Under the SNLA, Lucent was required to afford up to 24 hours of leave time to Gould even if Gould did not request it under the statute's name.
- 43. Lucent did not advise Gould of her rights to time off under the SNLA.

44. Lucent denied FMLA time off to Gould, which would have qualified as SNLA time off.
45. Lucent never offered SNLA time off to Gould.
46. Lucent's preclusion of Gould taking SNLA time off violated the SNLA and directly led to Gould's termination on August 1, 2003.

Count III

Retaliation under the FMLA

47. Gould hereby repeats and incorporates herein by reference each and all of the allegations set forth above.
48. Lucent's Benefits Manager erroneously denied Gould's requests for FMLA time off.
49. Lucent Managers changed Gould's absenteeism status from Level 4 to Level 5 after the denial of FMLA time off.
50. Gould was terminated on August 1, 2003, shortly after Lucent's denial for time off for July 7, 2003.
51. Lucent refused to reconsider its position at a grievance hearing held after Gould's termination.
52. Lucent retaliated against Gould for attempting to take time off under the FMLA, despite her eligibility.

Count IV

Retaliation under the SNLA

53. Gould hereby repeats and incorporates herein by reference each and all of the allegations set forth above.

54. Lucent's Benefits Manager erroneously did not consider Gould's requests for leave under the Small Necessities Leave Act (SNLA).
55. Gould was terminated on August 1, 2003, shortly after Lucent's denial of time off for July 7, 2003 and May 5-7, 2003..
56. Lucent refused to reconsider its position at a grievance hearing held after Gould's termination.
57. Lucent retaliated against Gould for attempting to take time off under the SNLA, despite her eligibility.
58. Lucent's preclusion of Gould taking SNLA time off violated the SNLA and led to Gould's termination on August 1, 2003.

#### Count V

##### Wrongful Termination Against Public Policy

59. Gould hereby repeats and incorporates herein by reference each and all of the allegations set forth above.
60. Gould was terminated for excessive absenteeism.
61. The absences which directly resulted in Gould's termination were absences on May 5-7, 2003 and July 7, 2003.
62. Gould requested time off under the FMLA, and submitted paperwork and documentation to secure approval from Lucent for her absences from work.
63. Lucent erred, and did not approve May 5-7, 2003 and July 7, 2003 as qualifying time off under the FMLA or the SNLA.
64. By requesting the time off for valid reasons, Gould attempted to assert a legally guaranteed right.

- 65. Gould was terminated for attempting to assert a legally guaranteed right under state law and federal law.
- 66. Gould has been harmed by Lucent's unlawful termination.

#### Count VI

##### Negligent Infliction of Emotional Distress

- 67. Gould hereby repeats and incorporates herein by reference each and all of the allegations set forth above.
- 68. Lucent was negligent in deciding whether Gould's requested time off qualified under the FMLA or the SNLA.
- 69. Lucent's negligence caused Gould severe emotional distress.
- 70. Gould's emotional distress either caused or was caused by physical harm or injury.
- 71. Gould's physical harm or injury was manifested by objective symptomatology, such as nausea, head aches, stomach aches, increased anxiety, and sleeplessness.
- 72. The emotional distress was foreseeable, i.e., a reasonable person would have suffered emotional distress under the same circumstances.

#### Count VII

##### Intentional Infliction of Emotional Distress

- 73. Gould hereby repeats and incorporates herein by reference each and all of the allegations set forth above.



74. Lucent acted in an extreme or outrageous manner in its personnel dealings with Gould.
75. Lucent intended to cause emotional distress or should have known that emotional distress was likely to occur.
76. Gould's emotional distress was severe such that no reasonable person could be expected to endure it.
77. Lucent's actions resulted directly in Gould's severe emotional distress.

WHEREFORE, Gould respectfully prays that this Honorable Court enter judgment as follows:

1. For Gould's damages including lost pay and benefits since August 1, 2003;
2. For treble damages, under the FMLA and the SNLA, plus Gould's reasonable attorneys' fees, interest, and costs of suit; and
3. Granting Gould such other and further relief as may be just and appropriate.

**JURY DEMAND**

Pursuant to Rule 38 of the Massachusetts Rules of Civil Procedure and all other applicable law, Gould claims a trial by jury as to all counts and issues so triable.

LUANN P. GOULD

By her attorney,





Linda Harvey

Dated:

## CIVIL COVER SHEET

JS 44 (Rev. 11/04)

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

## I. (a) PLAINTIFFS

Luan P. Gou

(b) County of Residence of First Listed Plaintiff  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

LINDA A. HARVEY, Esq.

HARVEY &amp; KIEFER

184 Pleasant Valley, Methuen, MA 01844

## DEFENDANTS

LUCENT TECHNOLOGIES INC.

County of Residence of First Listed Defendant  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (if Known) EVAN J. SPERFELGEL  
EPSTEIN BECKER & GREEN, P.C.  
250 PARK AVENUE  
NY, NY 10177

## II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☒ Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

## III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State ☒ PTF ☐ DEF ☐ 1 Incorporated or Principal Place of Business in This State ☐ 4 ☐ 4
- Citizen of Another State ☐ 2 ☐ 2 Incorporated and Principal Place of Business in Another State ☐ 5 ☒ 5
- Citizen or Subject of a Foreign Country ☐ 3 ☐ 3 Foreign Nation ☐ 6 ☐ 6

## IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 865 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(c)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 441 Voting <input checked="" type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	<b>PRISONER PETITIONS</b> <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition			

## V. ORIGIN

- (Place an "X" in One Box Only)
- ☐ 1 Original Proceeding ☒ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

## VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

Brief description of cause:  
Alleged violation of FMLA

## VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

## VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

ORIGINAL

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS1. Title of case (name of first party on each side only) Luann P. Gould v. Under Technologies Inc.

2. Category in which the case belongs based upon the numbered nature of suit code listed on the civil cover sheet. (See local rule 40.1(a)(1)).

- ☐ I. 160, 410, 470, 535, R.23, REGARDLESS OF NATURE OF SUIT.
- ☒ II. 195, 196, 368, 400, 440, 441-446, 540, 550, 555, 625, 710, 720, 730, 740, 790, 791, 820\*, 830\*, 840\*, 850, 890, 892-894, 895, 950. \*Also complete AO 120 or AO 121 for patent, trademark or copyright cases
- ☐ III. 110, 120, 130, 140, 151, 190, 210, 230, 240, 245, 290, 310, 315, 320, 330, 340, 345, 350, 355, 360, 362, 365, 370, 371, 380, 385, 450, 891.
- ☐ IV. 220, 422, 423, 430, 460, 480, 490, 510, 530, 610, 620, 630, 640, 650, 660, 690, 810, 861-865, 870, 871, 875, 900.
- ☐ V. 150, 152, 153.

05 - 11118 PBS

3. Title and number, if any, of related cases. (See local rule 40.1(g)). If more than one prior related case has been filed in this district please indicate the title and number of the first filed case in this court.

4. Has a prior action between the same parties and based on the same claim ever been filed in this court?

YES ☐ NO ☒

5. Does the complaint in this case question the constitutionality of an act of congress affecting the public interest? (See 28 USC §2403)

YES ☐ NO ☒

If so, is the U.S.A. or an officer, agent or employee of the U.S. a party?

YES ☐ NO ☒

6. Is this case required to be heard and determined by a district court of three judges pursuant to title 28 USC §2284?

YES ☐ NO ☒7. Do all of the parties in this action, excluding governmental agencies of the united states and the Commonwealth of Massachusetts ("governmental agencies"), residing in Massachusetts reside in the same division? - (See Local Rule 40.1(d)).YES ☒ NO ☐A. If yes, in which division do all of the non-governmental parties reside?Eastern Division ☒ Central Division ☐ Western Division ☐

B. If no, in which division do the majority of the plaintiffs or the only parties, excluding governmental agencies, residing in Massachusetts reside?

Eastern Division ☐ Central Division ☐ Western Division ☐

8. If filing a Notice of Removal - are there any motions pending in the state court requiring the attention of this Court? (If yes, submit a separate sheet identifying the motions)

YES ☐ NO ☒

(PLEASE TYPE OR PRINT)

ATTORNEY'S NAME EWAN J. SPERFELDADDRESS Epstein Becker & Green, P.C., 350 PARK AVENUE, NY, NYTELEPHONE NO. (212) 351-4833

10177